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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
2000 Biennial Regulatory Review –	)	
	)	
Requirements Governing the NECA Board of Directors under Section 69.602 of the Commission's Rules	)	
	)	CC Docket No. 01-174
And	)	
	)	
Requirements for the Computation of Average Schedule Company Payments under Section 69.606 of the Commission's Rules	)	

AT&T COMMENTS

Pursuant to the Commission's Notice of Proposed Rulemaking, FCC 01-218, released August 31, 2001, and published in 66 Fed. Reg. 48406 (September 20, 2001) ("NPRM"), and Section 1.415 of the Commission's rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these comments on the proposed streamlining of the process by which NECA develops its average schedule formulas and related issues. The Commission notes that its current rate-of-return regulatory regime will exist for the foreseeable future and has proposed several options that might streamline the current process by which NECA derives the average schedule formulas. While AT&T supports the Commission's overall objective of reforming and simplifying the process for developing average schedule formulas, as shown in Part I, there are several issues that the Commission must address prior to freezing these formulas, including incorporating the effects of recent separations and access reform changes. In Part II, AT&T demonstrates that the Commission should not adopt any adjustment factor to the average schedule formulas that does not include a productivity factor. In Part III, AT&T

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notes that there are several carriers with more than 50,000 access lines that currently utilize the average schedule formulas to approximate their costs. These carriers clearly have the resources to perform their own separations cost studies and should be required to do so.

I. THE COMMISSION SHOULD NOT IMMEDIATELY FREEZE THE AVERAGE SCHEDULE FORMULAS WITHOUT INCORPORATING CERTAIN CHANGES.

Average schedule company formulas are based on the premise that they will produce payments to an average schedule local exchange carrier ("LEC") that will simulate the payments it would receive as a cost company.[1] However, implementation of a freeze on the current allocation factors would ignore the recent Separations Rule change setting a lower DEM factor when the number of access lines increases above certain thresholds.[2] A freeze would also fail to reflect the removal of USF contribution obligations from LEC revenue requirements.

Prior to July 1, 2001, payments to the Universal Service Fund were embedded in the cost studies of rate-of-return LECs, and, as a result, have been reflected in the average schedule formulas. Before implementing any freeze on the average schedule formulas, the Commission must first ensure that the sampled cost companies, upon which these formulas

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1 NPRM, CC Docket No. 01-174, FCC 01-218, released August 31, 2001, ¶ 6.

2 *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, FCC 01-162 (released May 22, 2001) ("Separations Freeze Order"). 47 C.F.R. § 36.125(j) states: "If during the period from January 1, 1997, through June 30, 2006, the number of a study area's access lines increased or will increase such that, under § 36.125(f) the weighting factor would be reduced, that lower weighting factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. The study area will restate its Category 3, Local Switching Equipment factor under § 36.125(f) and use that factor for the duration of the freeze period."

are based, have removed these USF contribution obligations from their embedded costs. Although NECA and most rate-of-return LECs have adjusted their carrier common line rates to reflect the removal of their universal services contributions from access charges, nonetheless, the average schedule formulas are based on LEC cost studies that contain these USF contributions and thus may yield common line costs that are overstated, resulting in a higher CCL charge.

As AT&T has previously demonstrated in its MAG Comments, the Commission should ensure that Billing and Collection expenses are properly assigned to the services they support.[3] Only by first ensuring that these costs are properly assigned and that the current DEM transition mechanism is implemented, can the Commission have any reasonable confidence that costs are recovered in a cost-causative manner.

Finally, although AT&T has not had an opportunity to review and to understand the implications of the Commission's recent *MAG Order* (FCC 01-304) adopted on October 11, 2001, it does appear that the reforms adopted therein would impact the manner in which LEC costs will be recovered.[4] As a consequence, this recent order may raise issues that will also require modifications to the procedures associated with average schedule formulas.

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3 *See* AT&T Comments on MAG NPRM, filed February 26, 2001, pp. 17-18, *In the Matter of Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, etc.*, CC Docket No. 00-256 *et al.* ("AT&T MAG Comments"). *See also Access Charge Reform,* CC Docket No. 96-262, Third Report and Order, FCC 97-401 (released November 26, 1997), ¶¶ 33-35, 43-49.

4 FCC News "FCC Adopts Order to Reform Interstate Access Charge System for Rural Carriers," released October 11, 2001, and attached "Summary of MAG Item."

II. THE COMMISSION SHOULD NOT ADOPT ANY ADJUSTMENT FACTOR TO THE AVERAGE SCHEDULE FORMULAS THAT DOES NOT CONTAIN A PRODUCTIVITY FACTOR.

AT&T has previously demonstrated that application of the inflation-adjusted revenue per line formula associated with the MAG Proposal would simply guarantee growth in LEC revenue far in excess of any reasonable increases in LEC costs, and accordingly, the proposal must be modified to include a productivity factor.[5] The FCC is addressing the productivity issue in its forthcoming FNPRM seeking "additional comment on the MAG incentive plan and how it might be modified to provide incentives for cost efficiency gains that will benefit consumers through lower rates and improved services."[6] The same considerations apply to the average schedule formulas, which should not be frozen without first incorporating an annual adjustment that reasonably reflects the downward trend in LECs' costs and ensures that ongoing LEC productivity gains flow to reductions in access unit costs.

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5 AT&T's analysis, while not specific to the average schedule LECs, included the average schedule settlements in its analysis of NECA pool results. *See* AT&T MAG Comments, pp. 14-17.

6 FCC News "FCC Adopts Order to Reform Interstate Access Charge System for Rural Carriers," released October 11, 2001, p. 2.

III. AVERAGE SCHEDULE COMPANIES SHOULD BE DEFINED AS CARRIERS WITH 50,000 AND FEWER ACCESS LINES.

The average schedule settlement formulas were intended to help small local exchange carriers, who may not have the resources to perform cost separations studies, develop their access charges and determine their settlements with NECA. However, there are several average schedule companies that have over 50,000 access lines and settlements that exceed $10 million annually.[7] These carriers are clearly capable of reporting their costs more accurately and should be compensated for the use of their facilities on the basis of their actual costs. Commonwealth Telephone Company, for example, has over 300,000 access lines and annual settlements of $53.4 million.[8] Commonwealth, which accounts for approximately 9% of the average schedule company settlements and 11% of the access lines, would be classified by NECA as a Group B company under cost based on the number of lines it serves. Group B companies are defined as large non-RBOC carriers that file on a cost basis.[9] NECA has not, however, required Group B companies to supply data for the development of the average schedule formulas, because NECA did not consider this group of carriers representative of average schedule companies.[10] Accordingly, because the costs of Group B cost companies

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7 *See* Exhibit A attached.

8 *Id.*

9 *See* 2001 NECA Modification of Average Schedule, filed December 28, 2000, p. II-1. For example, Anchorage Telephone Utility, which files on a cost basis, is a Group B company and yet it is smaller than Commonwealth because it has under 200,000 access lines and an interstate revenue requirement of $27 million.

10 *Id.*, p. II-2.

are excluded in developing the average schedule formulas, those formulas are not representative of certain larger average schedule companies such as Commonwealth.

The standard of 50,000 or fewer access lines is commonly used to distinguish small local exchange carriers from larger ones. For instance, additional DEM weighting is allowed for small carriers with 50,000 or fewer access lines, and the 50,000 line criteria was also used in implementing regulatory reform for small LECs subject to rate-of-return regulation.[11] Commonwealth, North State, North Pittsburgh, Denver & Ephrata and Conestoga are not small local exchange carriers and they plainly have the resources to perform cost separations studies. Their annual settlements range from $10.3 million to $53.4 million.[12] In addition, as the separations process becomes further simplified and streamlined, *e.g.* as a result of the *Separations Freeze Order*, the administrative burdens associated with performing cost studies diminish considerably. As a part of access reform, the average schedule settlement formulas should be limited to small carriers of 50,000 or fewer access lines that lack the resources to perform cost separations studies. Because there is no justifiable reason for these larger carriers to remain average schedule companies, they should be required to convert to cost by the next annual filing on July 1, 2002.

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11 *Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation*, CC Docket No. 92-135, Report and Order, FCC 97-41 (released February 18, 1997) ("Feb. 18, 1997 Order"); *Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation*, CC Docket No. 92-135, Report and Order, FCC 93-253 (released June 11, 1993). The Commission's tariff filing rules require less supporting information from small local exchange carriers that serve 50,000 or fewer access lines and that elect to file their own tariffs. *See* 47 C.F.R. § 61.39(a); *see also Feb. 18, 1997 Order*, fn. 23.

12 *See* Exhibit A.

CONCLUSION

For the reasons stated above, the Commission should *not* freeze the current Average Schedule Formulas. Instead, the Commission should first ensure that the costs that are to be recovered by the Average Schedule Formulas are accurately reflected in the analysis. Furthermore, the Commission should require certain average schedule companies with greater than 50,000 access lines file cost studies that reflect their own costs.

Respectfully submitted,

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AVERAGE SCHEDULE COMPANIES **EXHIBIT A**

with > 50,000 Access Lines

SAC	LEC	State	Annualized Settlement	Access Lines
170161	Commonwealth	PA	$ 53,413,536	303,190
230491	North State	NC	$ 21,621,588	135,732
170193	North Pittsburgh	PA	$ 19,052,196	79,653
170165	Denver & Ephrata	PA	$ 11,307,384	59,632
170162	Conestoga	PA	$ 10,305,228	58,420
	Total		$ 115,699,932	636,627
	Total Average Schedule Settlements		$ 609,018,588	2,800,598
	Large LECs % of Total AS Settlements		19%	23%
	Commonwealth % of Total AS Settlements		9%	11%

Source: 2001 NECA Modification of Average Schedules, Appendix E